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TAGS: [PHUM](#) [PGOV](#) [PINR](#) [SOCI](#) [SCUL](#) [UP](#)
SUBJECT: UKRAINE: VERDICT AND SENTENCING IN GONGADZE CASE
EXPECTED IN MARCH

Classified By: Political Counselor Kent Logsdon for reasons 1.4 (b) and (d).

¶1. (C) Summary: Lawyer Valentyna Telychenko, who represents the wife of slain journalist Georgiy Gongadze, told us that she expected a verdict and sentencing for the three men accused of killing Gongadze by early March; according to press reports, March 3 could be the final day of the trial. The two-year old trial has encountered a series of delays since July 2007. As in previous meetings, Telychenko expressed disappointment that senior government officials from the Kuchma Era have not been held accountable for planning the killing and that key suspect General Pukach remains at large. She criticized President Yushchenko's recent decision to honor former Prosecutor General Oleksandr Potebenko and Judge Mariya Pryndyuk, both of whom have been criticized for their roles in the investigation.

¶2. (C) Comment: The news that a verdict and sentencing of the three defendants on trial may be coming in March is encouraging, but we agree that the lack of progress in the broader investigation is disappointing. Claims that the political will to seriously investigate the case and prosecute those responsible for planning the murder seem buttressed by the several years of delays encountered in the investigation. Telychenko felt that the Ukrainian public and Western governments and NGOs were losing interest. We reassured her that we have not forgotten and will continue to follow developments. End of Summary and Comment.

Hearings Delayed in 2007, Sentencing as early as March

¶3. (U) The pace of court hearings slowed in the last six months of 2007 in the trial of three policemen accused of carrying out the 2000 murder of prominent journalist Georgiy Gongadze. The delays of the past year occurred because of court-ordered psychological evaluations of the defendants. On December 27, 2007, the Kyiv Court of Appeals found all three defendants, Mykola Protasov, Valeriy Kostenko and Oleksandr Popovych, able to stand trial. In January 2008, a panel of judges from the Kyiv Court of Appeals brought additional charges against the defendants for damaging the image of the state and law enforcement bodies. On February 5, the prosecutors asked for prison sentences of 12-14 years for the defendants; the whereabouts of the primary suspect, General Olixiy Pukach, remained unknown.

¶4. (C) During court debates on February 5, the prosecutors had requested the following prison sentences for the defendants for premeditated murder and abuse of power: 14 years for Protasov, 13 for Popovych and 12 for Kostenko. Per lawyer Valentyna Telychenko, defendant Kostenko pleaded guilty to all the charges brought against him, while the other two recanted their earlier guilty pleas, denying that

the murder was premeditated. Lawyer Telychenko told Emboffs that she will ask that Protasov receive the highest possible sentence of 14 years and to lessen the sentences for Kotsenko to eight years for his cooperation throughout the trial and Popovych to 10 years. She said she expected the verdict and sentences to come as soon as March. According to the press, the court is expected to reconvene on March 3, hear the final statements from the defendants and then retire to the deliberation room in order to render a verdict.

¶15. (C) Telychenko, who represents Gongadze's widow Myroslava, expressed doubts to Emboffs that the public will be satisfied with the results of the trial because the investigation on Pukach and other senior officials, who may have been involved, has gone nowhere. In a February 13 meeting, she criticized Deputy Prosecutor General Mykola Holomsha, who has overall responsibility for the case, for his lack of professionalism and for stalling the investigation. She explained that Holomsha blamed delays in the investigation on the lack of assistance from international organizations and foreign governments to provide expert analysis of the recordings made by former Major Melnychenko. Telychenko claimed that Holomsha, in his defense, often referred to letters from the Prosecutor General to the Parliamentary Assembly, the Council of Europe and the USG, which were intentionally vaguely worded requests to make it nearly impossible to provide concrete assistance. However, Holomsha continued to use this as an excuse for the lack of progress in the investigation, according to Telychenko.

¶16. (C) Telychenko said that the only way to move ahead with the investigation of who masterminded the killing was to arrest Melnychenko and take him to court where a thorough reconstruction of events and analysis of his recordings could be done. She said that, at a minimum, making the recordings

were illegal and thus grounds for taking him to trial. She said that she does not believe any hearings would directly implicate former President Kuchma in Gongadze's murder, but rather that he had created a climate of impunity, which allowed this and other high profile crimes to be committed by law enforcement agencies during his presidency. As in previous meetings, she spoke at some length about former Rada Speaker Moroz and his possible knowledge of who ordered Gongadze's murder. She discounted February 7 reports in the Party of Regions-controlled newspaper Segodnya, alleging that that the so-called "Werewolves" - a gang of rogue MOI officers currently on trial for high profile killings and kidnappings during the Kuchma presidency - had been involved in Gongadze's killing and had reburied his body. She said this story was pure speculation and the source of the information was not identified in the report.

Groups Criticize President for Awarding Judge and former PG

¶17. (U) On December 18, 2007, the International Federation of Journalists, the National Union of Journalists of the UK and Ireland, the Institute of Mass Information (IMI), the Gongadze Foundation, and the Independent Media Union sent a letter to the President criticizing him for giving an award to judge of the Kyiv Court of Appeals Mariya Pryndyuk, whose earlier decision in 2004 allowed the main suspect Pukach to flee the country and evade justice. As of now, the President's Secretariat left unanswered an information query by IMI concerning grounds for giving the award.

¶18. (U) On September 12, 2007, the same organizations publicly condemned senior government officials of Ukraine for "sabotage" in the investigation and criticized the President for having awarded in 2007 the Yaroslav the Wise Order to former Prosecutor General Oleksandr Potebenko, who they claim failed to conduct a thorough investigation of the case. In the letter, they noted that the investigation, which developed most rapidly in 2005, slowed down in 2007 in part due to lack of political will at all government levels. They also attributed the slowdown in the investigation to

personnel changes in the investigating team in late 2006, and a lack of cooperation from Melnychenko, who refused to provide both the recordings and recording devices for examination.

¶9. (U) Visit Embassy Kyiv's classified website:
www.state.sgov.gov/p/eur/kiev.
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